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May 16, 2011

Honorable Judge Gleeson
United States District Judge
United States District Court
for the Eastern District of New York
225 Cadman Plaza East, Room 727S
Brooklyn, NY 11201-1818

Re: *In re Air Cargo Shipping Services Antitrust Litigation MD-06-1775*

Dear Judge Gleeson:

Plaintiffs in the above-referenced action submit this letter in accordance with this Court's Order to Show Cause of March 4, 2011, and respectfully request that the Court enter an order rejecting as untimely the requests of MAAX Bath Inc., MAAX US Corp., MAAX Corporation, MAAX Inc., MAAX Canada (collectively, "MAAX") and Roche Diabetes Care AG (formerly Disetronic Medical Systems AG) ("Roche") for exclusion from the settlement class under plaintiffs' settlement agreements with (1) Japan Airlines International Co. ("JAL"), (2) AMR Corporation and American Airlines, Inc., (3) Société Air France, Koninklijke Luchtvaart Maatschappij N.V., and Martinair Holland N.V., and (4) Scandinavian Airlines System and SAS Cargo Group A/S (collectively, the "Settling Defendants") and the request of SDV Italia SPA ("SDV") for exclusion from the settlement class under each of the foregoing settlement agreements, except the JAL settlement.

Under the Court's order of October 28, 2010 [ECF No. 1314], requests for exclusion were required to be postmarked by January 18, 2011. MAAX, Roche and SDV, separately, requested exclusion from the settlement class. *See* Exhibits A-C to the Declaration of Robert N. Kaplan, dated May 16, 2011 ("Kaplan Dec.") submitted herewith. MAAX's request, dated January 13, 2011, was received February 28, 2011. Kaplan Dec., Exhibit A. Roche's request was received February 28, 2011. Kaplan Dec., Exhibit B. SDV's request, dated January 25, 2011, was received February 7, 2011. Kaplan Dec., Exhibit C. Following the fairness hearing of March 3, 2011, on March 4, 2011, this Court issued an order for MAAX, Roche and SDV to show cause in writing on or before April 29, 2011, why their requests for exclusion from plaintiffs' settlement agreements with the Settling Defendants should not be disregarded due to their untimeliness (the "March 4 Order"). Kaplan Dec., Exhibit D. Counsel for the Settling Defendants were directed to personally serve MAAX, Roche and SDV with the March 4 Order on or before April 1, 2011, and to file proof of service with the Court. *See id.* At Settling Defendants' request, on March 18, 2011, this Court ordered counsel for the Settling Defendants to effectuate service of the Court's March 4, 2011 Order by serving it via overnight courier on SDV, Roche and MAAX at the return addresses listed on their opt-out notices. Kaplan Dec.,



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Exhibits E-F. Such service was made (Kaplan Dec., Exhibits G-I), and certificates of service were filed with the Court on March 30, 2011 (Kaplan Dec., Ex. J-K).

Neither plaintiffs nor Settling Defendants' counsel have received any response from MAAX, Roche and SDV and are unaware of any. Kaplan Dec., ¶ 14.

Consequently, it is respectfully submitted that the final judgments dismissing the Settling Defendants that were entered by this Court on April 8, 2011 [ECF Nos. 1446-49] (Kaplan Dec., Exhibits L-O), with exhibits listing the opt-outs, should not be altered.

Plaintiffs respectfully request that the Court enter an order rejecting the requests of MAAX, Roche and SDV for exclusion from the settlement class with respect to the Judgments entered with the Settling Defendants.

Respectfully Submitted,

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